

# HIPAA - Privacy - Payment

TRICARE Management Activity, Electronic Business Policy & Standards

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OSD(HA), TMA eBPS

## Highlights

- ◆ General Requirement
- ◆ Payment and Patient's Consent to Use or Disclose PHI
- ◆ Use of Debt Collection Agencies Under the Fair Debt Collection Practices Act

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## HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

### *General Requirement*

The Privacy Rule permits covered entities to use or disclose protected health information (PHI) for payment purposes. "Payment" encompasses the various activities of health care providers to obtain payment or be reimbursed for their services and for a health plan to obtain premiums, to fulfill their coverage responsibilities and provide benefits under the plan, and to obtain or provide reimbursement for the provision of health care. Common examples of payment activities include, but are not limited to:

- ◆ Determining eligibility or coverage under a plan and adjudicating claims
- ◆ Risk adjustments
- ◆ Billing and collection activities
- ◆ Reviewing health care services for medical necessity, coverage, justification of charges, and the like
- ◆ Utilization review activities, and
- ◆ Disclosures to consumer reporting agencies (limited to specified identifying information about the individual, his or her payment history, account number, and identifying information about the covered entity)

### *Payment and Patient's Consent to Use or Disclose PHI*

Payment falls under the Treatment, Payment, and Healthcare Operations (TPO) element of the HIPAA Privacy Rule. Authorizations from patients are not required for a covered entity to perform payment functions. The patient always maintains the right to request restrictions on uses and disclosures of health information for TPO purposes; however, the covered entity does not have to grant such request but is bound by any restriction to which it agrees.

### *Use of Debt Collection Agencies Under the Fair Debt Collection Practices Act*

The HIPAA Privacy Rule permits covered entities to continue to use the services of debt collection agencies. Debt collection is recognized as a payment activity within the "payment" definition. Through a business associate arrangement, the covered entity may engage a debt collection agency to perform this function on its behalf. Disclosures to collection agencies under a business associate agreement are governed by other provisions of the rule, including the minimum necessary requirement.

We are not aware of any conflict between the Privacy Rule and the Fair Debt Collection Practices Act. When a use or disclosure of PHI is necessary for the covered entity to fulfill a legal duty, the Privacy Rule would permit such use or disclosure as required by law.